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14
15 **UNITED STATES DISTRICT COURT**
16 **DISTRICT OF NEVADA**

17
18 LISA MARIE BAILEY, individually,

Case No.:

19 Plaintiff,

COMPLAINT

20 vs.

21 AFFINITYLIFESTYLES.COM, INC. d/b/a
22 REAL ALKALIZED WATER, a Nevada
23 corporation; DOES I-X; and ROE BUSINESS
24 ENTITIES I-X, inclusive,

25 Defendants.

26
27 **COMPLAINT WITH JURY DEMAND**

28 Plaintiff LISA MARIE BAILEY (“Plaintiff”), by and through her attorneys of record, the law firm MAIER GUTIERREZ AYON, hereby demands a trial by jury and complains and alleges against the above named Defendant, AFFINITYLIFESTYLES.COM, INC. d/b/a REAL ALKALIZED WATER, a Nevada corporation; DOES I-X; and ROE BUSINESS ENTITIES I-X, inclusive (collectively, “Defendant” or “Real Water”) as follows:

29
30 **JURISDICTION, VENUE AND LEGAL BASIS FOR THIS ACTION**

31 1. This Court possesses jurisdiction to entertain this matter pursuant to 28 U.S.C. § 1331
32 because Plaintiff’s claims arise under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et*

1 *seq.*

2 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1331 since “a substantial
3 part of the events or omissions giving rise to the claim[s] occurred” in Nevada.

4 3. This Court has supplemental jurisdiction over Plaintiff’s state law claims under 28
5 U.S.C. § 1337(a).

6 4. This civil action is brought by Plaintiff pursuant to federal common and statutory law.

7 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

8 5. From about April 4, 2016 until about June 25, 2016, Defendant subjected Plaintiff to
9 discrimination based on religion, sex, and retaliation in violation of Title VII of the Civil Rights Act
10 of 1964, 42 U.S.C. § 2000e *et. seq.*

11 6. From about April 4, 2016 until about June 25, 2016, Defendant subjected Plaintiff to
12 discrimination based on her disability in violation of Title I of the Americans with Disabilities Act
13 Amendments Act (ADAAA).

14 7. From about April 4, 2016 until about June 25, 2016, Defendant subjected Plaintiff to
15 discrimination based on her age in violation of the Age Discrimination in Employment Act (ADEA).

16 8. From about April 4, 2016 until about June 25, 2016, Defendant violated the Equal Pay
17 Act of 1963 (EPA).

18 9. Thereafter, on or about June of 2016, Plaintiff filed a complaint of discrimination with
19 the Nevada Equal Rights Commission (“NERC”). On or about August 23, 2016, NERC filed
20 Plaintiff’s charge with the United States Equal Employment Opportunity Commission (“EEOC”).
21 This timely filing with the EEOC fulfilled her obligation to initiate an administrative claim before
22 seeking review in this Court.

23 10. In Plaintiff’s EEOC filing, Plaintiff alleged facts demonstrating that Defendant
24 knowingly subjected Plaintiff to discriminatory treatment based on religion, age, sex, disability, and
25 equal pay.

26 11. On or about November 7, 2016, the EEOC issued Plaintiff a Notice of Right to Sue
27 Letter, stating that she would have within 90 days of receipt of that letter to file a lawsuit.

28 12. Accordingly, Plaintiff has met all administrative prerequisites to bring this lawsuit.

PARTIES

13. Plaintiff LISA MARIE BAILEY is, and at all times pertinent hereto was, a resident of Clark County, Nevada.

14. Upon information and belief, defendant AFFINITYLIFESTYLES.COM, INC. d/b/a REAL ALKALIZED WATER, is, and at all times pertinent hereto was, a Nevada corporation authorized to do business in Clark County, Nevada.

15. Defendant sells bottled drinking water using the "Real Water" brand.

16. The true names and capacities, whether individual, corporate, associate, partnership or otherwise, of the Defendants herein designated as DOES I through X and ROE CORPORATIONS I through X, inclusive, are unknown to Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff will seek leave of the Court to insert the true names and capacities of such Defendants when the same have been ascertained and will further seek leave to join said Defendant in these proceedings.

GENERAL ALLEGATIONS

Defendant Hires Plaintiff and Imposes Religious Materials on Her

17. On or around April 4, 2016, Defendant hired Plaintiff as a “Human Resources Director” in the company’s Las Vegas office.

18. On or around the day Plaintiff was hired, Plaintiff met Brent Jones, Defendant's founder and President, who raised the subject of religion by informing Plaintiff that he is a Scientologist. Plaintiff indicated that she had no issue with that, as long as he had no issue with her practicing the Mormon religion. Mr. Jones told Plaintiff he had no issue and that she was hired.

19. However, after Plaintiff was hired, Defendant forced Plaintiff to watch several videos with religious undertones, including “The Secret” and “The Way to Happiness,” and several others based on the Scientology religion.

20. Defendant also offered raises for employees who participated in “optional” self-betterment courses, which included books, videos, and paperwork, many of which contained Scientology-related messages and undertones and were authored or directly based on works by Scientology founder L. Ron Hubbard.

1 21. Some of the courses approved and disseminated by Defendant were directly promoted
 2 and/or created by the World Institute of Scientology Enterprises (“WISE”), which Defendant made
 3 no effort to conceal or explain the meaning of to its employees.

4 22. According to Defendant’s policies, for every “optional” course an employee viewed,
 5 the employee was entitled to a twenty-five-cent raise.

6 23. Plaintiff did not expect Defendant, a business seemingly unrelated to religion, to have
 7 an established religious culture amongst its employees, much less to force new employees to watch
 8 religious videos in exchange for pay raises.

9 24. Nonetheless, Plaintiff proceeded with her training and performed her work duties and
 10 courses admirably.

11 25. Despite completing at least two of the “optional” self-betterment courses, Plaintiff was
 12 not given any raises, and consistently only earned \$15.00 per hour while employed with Defendant.

13 26. Plaintiff expressed her discomfort with the courses repeatedly to management
 14 throughout the duration of her employment, but was never given an explanation as to why Defendant
 15 imposed religious material on its employees in the workplace.

Defendant Demotes Plaintiff Without Justification

17 27. Approximately two weeks into her employment, Defendant placed Plaintiff on paid
 18 administrative leave and then demoted Plaintiff from her position as the Human Resources Director
 19 and placed her in the position of Assistant Human Resources Director, without giving Plaintiff any
 20 reason (verbal or written) for doing so.

21 28. Plaintiff’s paid administrative leave ended on or around May 2, 2016.

22 29. Upon information and belief, on or around Plaintiff’s second day of paid administrative
 23 leave, Defendant hired someone else to take over the Human Resources Director position without
 24 notifying Plaintiff that it was doing so, even though that position was supposed to be held for Plaintiff.

25 30. Upon returning work on or around May 2, 2016, Plaintiff was informed by Defendant
 26 that the Human Resources Director position had been filled while she was out, and that she was now
 27 going to be the Assistant Director of Human Resources, with the same rate of pay at \$15.00 per hour.

28 31. Plaintiff’s position as Human Resources Director was replaced by Frank Consiglio, a

1 shareholder of Defendant who had less experience than Plaintiff in the human resources field.

2 32. Despite Mr. Consiglio's lack of experience, Defendant started Mr. Consiglio's wages
3 at \$20.00 per hour as the Human Resources Director, even though Plaintiff only started with \$15.00
4 for the exact same position when she was initially hired, and even though Mr. Consiglio was
5 responsible for the exact same tasks and duties Plaintiff was responsible for during her tenure as the
6 Human Resources Director.

7 33. Wanting to make the best of a bad situation, Plaintiff agreed to the demotion because
8 Defendant promised her in writing that the ultimate goal was for Plaintiff to be offered the Human
9 Resources Director position.

Plaintiff Begins to Feel Alienated Based on Her Religious Beliefs

11 34. On or around May of 2016, Defendant put Plaintiff in charge of signing up Defendant
12 employees for the various mandatory and “optional” courses, many of which contained Scientology-
13 related values, philosophies, and undertones.

14 35. On numerous occasions, Plaintiff relayed her discomfort with Defendant's imposition
15 of religious videos and teachings in the workplace to her superiors, including but not limited to her
16 direct supervisors Mr. Consiglio, Brent Jones, and Blain Jones, on or around June 14, 2016, but
17 nothing was ever done to address the problem.

18 36. As time progressed, Plaintiff's co-workers began to interact differently with her, and
19 the workplace environment became extremely unpleasant and unbearable.

20 37. For example, Mr. Consiglio would often refer to Plaintiff as a “Jack Mormon,” which
21 is a derogatory term that insinuates Plaintiff is not a genuine or strictly-observant follower of the
22 Mormon religion.

23 38. Plaintiff felt alienated by many of the other employees because many of them held the
24 same religious beliefs, and clearly did not approve of her choice to not participate or convert to
25 Scientology like a few other Defendant employees had done since their employment with Defendant
26 began.

27 39. Plaintiff performed her work while attempting to ignore the hostile nature of her co-
28 workers and superiors.

1 **Defendant Refuses to Accommodate Plaintiff's Disability and Instead Terminates Her**

2 40. While employed with Defendant, Plaintiff suffered from chronic depression, anxiety,
 3 and Attention-Deficit Hyperactivity Disorder (ADHD), which substantially limited her major life
 4 activities of interacting with others at work.

5 41. Plaintiff was open and forthcoming about her medical disabilities to Defendant, as she
 6 informed her direct supervisor, Mr. Consiglio (along with other Defendant employees she worked
 7 with) that her chronic and long-lasting ADHD-related disability prevents her from interacting with
 8 others at work, and that she needed to work with the door shut so that she would not have any
 9 interruptions.

10 42. Depression and anxiety, when combined with Plaintiff's ADHD, substantially limited
 11 Plaintiff's ability to work under normal circumstances.

12 43. At first, Defendant acknowledged Plaintiff's disability and seemed to accommodate
 13 Plaintiff's request for barriers to be put in place to keep her from being interrupted, as Mr. Consiglio
 14 closed Plaintiff's door after she told him about her disability in May of 2016.

15 44. However, Defendant's position drastically changed course in June of 2016, after
 16 Plaintiff became eligible for medical benefits and needed medical time off in order to tend to her
 17 ADHD, anxiety, and depression.

18 45. Plaintiff had to wait until June of 2016 to receive her medical benefits because
 19 Defendant let its medical insurance benefits coverage lapse for four months.

20 46. By June of 2016, Plaintiff's symptoms stemming from her medical disability had
 21 become exacerbated because of her extreme discomfort at having to promote and disseminate
 22 Scientology-related teachings on behalf of the company. Plaintiff found that she was suffering at
 23 work and with each day it became harder for her to focus without socially withdrawing and
 24 substantially limiting her communications with co-workers.

25 47. Accordingly, after receiving notice that she was eligible for medical benefits in early
 26 June of 2016, Plaintiff called her doctor in order to schedule an appointment so that she could acquire
 27 the medication she needed for her ADHD, panic attacks, anxiety, and depression in order to better
 28 herself and her health.

1 48. Plaintiff booked a medical appointment for the earliest date available, but
 2 unfortunately there were not any immediate openings for the month of June of 2016.

3 49. Although Plaintiff attempted to get through the remainder of June of 2016 without
 4 incident, she found that her disability prevented her from doing so, as the ADHD, compounded with
 5 the anxiety and depression, consumed Plaintiff and substantially limited her ability to work by
 6 rendering her unable to effectively communicate and interact with others at work.

7 50. On or around June 9, 2016, Plaintiff's symptoms stemming from her disability had
 8 considerably worsened. Plaintiff was afraid to leave her apartment, talk to anyone, or even get out of
 9 bed. Unable to go into work, Plaintiff informed her supervisor, Mr. Consiglio, via text message that
 10 she was ill and would not be working that day.

11 51. Mr. Consiglio's immediate response to Plaintiff's request for a day off was to accuse
 12 Plaintiff of taking the day off to look for another job, which she denied.

13 52. After a few days off of work, Plaintiff's condition had not abated. When Plaintiff
 14 informed Mr. Consiglio that she would need time off going into the next week beginning June 13,
 15 2016, Mr. Consiglio demanded that Plaintiff provide him with a new doctor's note every three days
 16 until she came back to work.

17 53. When Plaintiff objected to Mr. Consiglio's doctor's note demand by informing him
 18 that she was not able to book a medical appointment until August of 2016 but that she would keep
 19 calling the doctor's office to try to get in sooner, Mr. Consiglio ordered her to "go to an urgent care."

20 54. In fear of losing her job, Plaintiff then went to an urgent care once every three days so
 21 that she could get a doctor's note to turn into work. This process was extremely stressful and only
 22 worsened Plaintiff's condition.

23 55. On June 14, 2016, after Defendant learned that Plaintiff had been to urgent care for
 24 treatment, Mr. Consiglio asked Plaintiff via text message "**What was the diagnosis to be out a whole**
 25 **week???**" which made Plaintiff extremely uncomfortable, as it intruded on her medical privacy.

26 56. Feeling like she had to explain her medical situation once again, Plaintiff emailed Mr.
 27 Consiglio, Brent Jones, and Blane Jones on June 14, 2016, reiterating that her diagnosis was due to
 28 her ADHD, depression, and anxiety, which had become worse due to the work-related issues she was

1 going through, including but not limited to the Scientology-related courses.

2 57. While Plaintiff was out on medical leave, Mr. Consiglio began demanding that Plaintiff
 3 give him her work passwords and various course files. Plaintiff refused to give Mr. Consiglio her
 4 email and computer passwords, as she did not feel comfortable doing so until speaking with upper
 5 management, especially while she was still employed with Defendant.

6 58. Despite being on a medical leave of absence and providing a doctor's note, Mr.
 7 Consiglio issued Plaintiff a written warning on June 14, 2016 for attendance.

8 59. Plaintiff did not understand why she was receiving any kind of disciplinary action
 9 during her medical time off from work.

10 60. On or about June 25, 2016, Defendant terminated Plaintiff's employment without
 11 warning or any kind of notice.

12 61. On the day that Plaintiff was terminated, Defendant asked Plaintiff to return the keys
 13 she used for the office. Once Plaintiff stopped by to return the keys, she saw Mr. Consiglio in the
 14 parking lot and asked him when she would be able to come back to work, to which Mr. Consiglio
 15 responded "You no longer work here."

16 62. Thereafter, Defendant filled Plaintiff's position with Shawna Sullivan, who is
 17 significantly younger than Plaintiff, as Plaintiff was 47 years old at the time she worked for Defendant.

18 63. The termination was not based on deficient job performance as Defendant claims.

19 64. In reality, Defendant sought a reason to terminate an employee based on her differing
 20 religious views, her disabled condition, her age, and her equal pay demands.

Defendant's Prior Discriminatory Conduct

22 65. Prior to this incident, Defendant was on notice that its establishment subjected
 23 employees to discrimination, a hostile work environment, and retaliation in violation of Title VII of
 24 the Civil Rights Act.

25 66. Defendant has already been sued for religious discrimination at least once before by
 26 another former employee who also claims to have suffered adverse actions after refusing to participate
 27 in Defendant's "optional" religious-based coursework.

28 67. Defendant's discriminatory actions are consistent with a pattern and practice of

1 religious discrimination that subjects Defendant to punitive damages.

2 **FIRST CLAIM FOR RELIEF**

3 **Violation of Title VII of the Civil Rights Act; 42 U.S.C § 2000e *et. seq.***

4 **(Unlawful Employment Practice)**

5 68. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of the
6 complaint as through fully set forth herein, and incorporates the same herein by reference.

7 69. Defendant breached its obligation to provide a workplace free from discrimination and
8 hostility based on religion.

9 70. Defendant breached this obligation by requiring employees to watch Scientology-
10 themed videos and attend Scientology-themed seminars, by disfavoring employees who refused to do
11 so because they did not share the religious beliefs that Defendant promoted, and by failing to act after
12 Plaintiff notified management of this discriminatory behavior.

13 71. Defendant discriminated against Plaintiff by subjecting her to, among other
14 discriminatory acts, loss of compensation and termination, while other similar situated employees
15 who did share Defendant's promoted religious beliefs and who did submit to Defendant's religiously-
16 motivated demands without complaint were not exposed to the same discriminatory conduct.

17 72. Defendant engaged in an unlawful employment practice when its supervisors
18 repeatedly attempted to coerce Plaintiff into participating in religious programs (which had no relation
19 to the company's work and which Defendant knew were inconsistent with Plaintiff's beliefs), and
20 even leveraged them with pay raises.

21 73. Defendant conditioning pay raises on completing religious programs constitutes an
22 unlawful employment action because it discriminates against employees who do not hold those
23 religious beliefs.

24 74. Defendant's discrimination and retaliation based on religion deprived Plaintiff of
25 employment opportunities and adversely affected her status as an employee.

26 75. As a result of Defendant' actions, Plaintiff has suffered lost wages, mental anguish,
27 emotional distress, inconvenience, and loss of enjoyment of life.

28 ///

SECOND CLAIM FOR RELIEF

Violation of Title VII of the Civil Rights Act; 42 U.S.C § 2000e *et. seq.*

(Intentional Discrimination – Disparate Treatment)

76. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of the complaint as though fully set forth herein, and incorporates the same herein by reference.

77. Defendant deprived Plaintiff of the enjoyment of all benefits, privileges, terms and conditions of the employment relationship by subjecting Plaintiff to unlawful disparate treatment based on religion at her place of employment.

78. Defendant discriminated against Plaintiff by subjecting her to, among other discriminatory acts, loss of compensation and termination, while other similarly-situated employees who did share Defendant's promoted religious beliefs and who did submit to Defendant's religiously-motivated demands were not exposed to the same discriminatory conduct.

79. Defendant conditioning pay raises on completion of religious Scientology programs constitutes unlawful disparate treatment, as it discriminates against employees who do not hold those religious beliefs.

80. Defendant knew that Plaintiff did not share the religious beliefs it promoted and intentionally treated her differently for this reason.

81. Defendant's actions were taken with malice and/or with reckless indifference to Plaintiff's federally protected rights.

82. As a result of Defendant's actions, Plaintiff has suffered lost wages, mental anguish, emotional distress, inconvenience and loss of enjoyment of life

83. Plaintiff is entitled to recover compensatory damages due to Defendant engaging in unlawful discrimination.

84. Plaintiff is entitled to recover punitive damages because Defendant acted with reckless indifference to federally protected rights of aggrieved Plaintiff when Defendant failed to rectify or even acknowledge the unlawful behavior.

85. It has been necessary for Plaintiff to retain the services of attorneys and she is entitled to reasonable costs and attorneys' fees.

THIRD CLAIM FOR RELIEF

Violation of Title VII of the Civil Rights Act; 42 U.S.C § 2000e *et. seq.*

(Intentional Discrimination – Hostile Work Environment)

86. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of the complaint as though fully set forth herein, and incorporates the same herein by reference.

87. Defendant deprived Plaintiff of the enjoyment of all benefits, privileges, terms and conditions of the employment relationship by subjecting Plaintiff to a hostile work environment.

88. Defendant subjected Plaintiff to a hostile work environment by showing blatant disfavor towards her in comparison to other employees who shared the religious beliefs Defendant promoted and submitted to Defendant's demands to participate in Scientology-themed programs and activities without complaint.

89. Defendant also subjected Plaintiff to a hostile work environment by allowing Plaintiff's coworkers to treat her unfavorably because of her refusal to participate in all of the Scientology-themed activities and her decision to voice her opinions against the activities.

90. Specifically, Plaintiff's co-workers interacted differently with Plaintiff because of her extreme reluctance to participate in any of the Scientology-themed activities, and the workplace environment became extremely unpleasant.

91. Plaintiff's co-workers also ridiculed her for practicing Mormonism, which made her feel like her religion was not equally respected just because it was the same religion practiced by Defendant's owner Brent Jones and various other members of upper-management, who all practice Scientology.

92. Plaintiff felt alienated by many of the other employees because many of them held the same religious beliefs, and clearly did not approve of Plaintiff's decision to voice her opinions against the Scientology-themed activities.

93. Defendant maintained a hostile work environment by failing to take remedial action after Plaintiff notified management of Defendant's unlawful behavior.

94. Defendant's actions were taken with malice and/or with reckless indifference to Plaintiff's federally protected rights.

95. As a result of Defendant's actions, Plaintiff has suffered lost wages, mental anguish, emotional distress, inconvenience and loss of enjoyment of life.

96. Plaintiff is entitled to recover compensatory damage due to the Defendant engaging in unlawful discrimination.

97. Plaintiff is entitled to recover punitive damages because Defendant acted with reckless indifference to federally protected rights of aggrieved Plaintiff when the Defendant failed to rectify or even acknowledge the unlawful behavior.

98. It has been necessary for Plaintiff to retain the services of attorneys and she is entitled to reasonable costs and attorneys' fees.

FOURTH CLAIM FOR RELIEF

Violation of Title VII of the Civil Rights Act; 42 U.S.C § 2000e *et seq.*

(Retaliation)

99. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of the complaint as though fully set forth herein, and incorporates the same herein by reference.

100. Defendant discriminated against Plaintiff by subjecting her to, among other discriminatory acts, loss of compensation and termination, while other similarly situated employees, who shared Defendant's promoted religious beliefs and submitted to Defendant's demands to participate in Scientology-themed programs and activities without complaint, were not exposed to the same discriminatory conduct.

101. Plaintiff engaged in a protected activity when she expressed her opposition to Defendant's requirement that she participate in Scientology-themed activities, refusing to subject herself to religious propaganda; this is true even if the programs were not unlawful, so long as Plaintiff reasonably believed that they were, which she does.

102. Plaintiff had the right to refuse to participate in religious, Scientology-themed activities, as the programs were not related to her work, and violated her personal religious rights.

103. Defendant conditioning pay raises on completing religious Scientology programs was reasonably likely to deter reasonable workers from engaging in the protected activity of choosing to not participate.

104. Defendant allowing coworkers to alienate employees who did not participate in Scientology-themed activities was also reasonably likely to deter reasonable workers from engaging in the protected activity of choosing to not participate.

105. Defendant took an adverse employment action against Plaintiff by terminating her.

106. Defendant deliberately targeted Plaintiff for termination because of her refusal to submit to Defendant's demands that she participate in religious, Scientology-themed activity.

107. Defendant sought a reason to terminate Plaintiff because she had differing religious views.

108. Mr. Consiglio hastily-composing “Non-Optimum Reports” in the weeks prior to Plaintiff’s termination was clearly pretext for her termination.

109. As a result of Defendant' actions, Plaintiff has suffered lost wages, mental anguish, emotional distress, inconvenience, and loss of enjoyment of life.

FIFTH CLAIM FOR RELIEF

Nevada State Law Violation

(Violation of NRS 613.330 – Religious Discrimination)

110. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of the complaint as though fully set forth herein, and incorporates the same herein by reference.

111. Defendant discriminated against Plaintiff by subjecting her to, among other discriminatory acts, loss of compensation and termination, while other similarly situated employees, who shared Defendant's promoted religious beliefs and submitted to Defendant's demands that they participate in Scientology-themed programs and activities without complaint, were not exposed to the same discriminatory conduct.

112. As a result of Defendant's actions, Plaintiff has suffered lost wages, mental anguish, emotional distress, inconvenience and loss of enjoyment of life.

113. Defendant's discrimination deprived Plaintiff of employment opportunities and adversely affected her status as an employee.

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SIXTH CLAIM FOR RELIEF

Nevada State Law Violation

(Tortious Discharge)

114. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of the complaint as though fully set forth herein, and incorporates the same herein by reference.

115. Defendant tortiously discharged Plaintiff by terminating her for reasons which violate public policy.

116. Specifically, Defendant terminated Plaintiff because she did not share the religious beliefs that Defendant promoted and because she refused to submit to all of Defendant's demands that she participate in religious, Scientology-themed programs and activities.

117. Defendant terminated Plaintiff for reasons severely adverse to strong and compelling public policy and the common good.

118. Despite Plaintiff's frequent objections to Defendant's conduct, Defendant never sought to cure these violations.

SEVENTH CLAIM FOR RELIEF

Violation of Title I of the Americans with Disabilities Amendments Act; 42 U.S.C §§ 12101 *et seq.*

seq.

(Disability Discrimination)

119. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of the complaint as though fully set forth herein, and incorporates the same herein by reference.

120. While employed with Defendant, Plaintiff suffered from mental and/or physical impairments consisting of chronic depression, anxiety, and Attention-Deficit Hyperactivity Disorder (ADHD),

121. Plaintiff's impairments substantially limited her major life activities of concentrating, thinking, communicating, and interacting with others at work.

122. Plaintiff was open and forthcoming about her medical disabilities to Defendant, as she informed her direct supervisor, Mr. Consiglio (along with other Defendant employees she worked with) that her chronic and long-lasting ADHD-related disability prevents her from interacting with

1 others at work, and that she needed to work with the door shut so that she would not have any
 2 interruptions.

3 123. Plaintiff's ongoing depression and anxiety, when combined with Plaintiff's ADHD,
 4 substantially limited Plaintiff's ability to work under normal circumstances.

5 124. However, Plaintiff was otherwise qualified to perform the essential functions of her
 6 job as long as she had reasonable accommodations from Defendant, which included minimal
 7 interruptions from her work.

8 125. At first, Defendant acknowledged Plaintiff's disability and seemed to accommodate
 9 Plaintiff's request for barriers to be put in place to keep her from being interrupted, as Mr. Consiglio
 10 closed Plaintiff's door after she told him about her disability in May of 2016.

11 126. However, Defendant's position drastically changed course in June of 2016, after
 12 Plaintiff became eligible for medical benefits and needed medical time off in order to tend to her
 13 ADHD, anxiety, and depression.

14 127. By June of 2016, Plaintiff's symptoms stemming from her medical disability had
 15 become exacerbated. She was suffering at work and with each day it became harder for her to focus
 16 without socially withdrawing and substantially limiting her communications with co-workers.

17 128. Accordingly, after receiving notice that she was eligible for medical benefits in early
 18 June of 2016, Plaintiff called her doctor in order to schedule an appointment so that she could acquire
 19 the medication she needed for her ADHD, panic attacks, anxiety, and depression in order to better
 20 herself and her health.

21 129. Plaintiff booked a medical appointment for the earliest date available, but
 22 unfortunately there were not any immediate openings for the month of June of 2016.

23 130. Although Plaintiff attempted to get through the remainder of June of 2016 without
 24 incident, she found that her disability prevented her from doing so, as the ADHD, compounded with
 25 the anxiety and depression, consumed Plaintiff and substantially limited her ability to work by
 26 rendering her unable to effectively communicate and interact with others at work.

27 131. On or around June 9, 2016, Plaintiff's symptoms stemming from her disability had
 28 considerably worsened. Plaintiff was afraid to leave her apartment, talk to anyone, or even get out of

1 bed. Unable to go into work, Plaintiff informed her supervisor, Mr. Consiglio, via text message that
 2 she was ill and would not be working that day.

3 132. Mr. Consiglio's immediate response to Plaintiff's request for a day off was to accuse
 4 Plaintiff of taking the day off to look for another job, which she denied.

5 133. After a few days off of work, Plaintiff's condition had not abated. When Plaintiff
 6 informed Mr. Consiglio that she would need time off going into the next week beginning June 13,
 7 2016, Mr. Consiglio demanded that Plaintiff provide him with a new doctor's note every three days
 8 until she came back to work.

9 134. When Plaintiff objected to Mr. Consiglio's doctor's note demand by informing him
 10 that she was not able to book a medical appointment until August of 2016 but that she would keep
 11 calling the doctor's office to try to get in sooner, Mr. Consiglio ordered her to "go to an urgent care."

12 135. In fear of losing her job, Plaintiff then went to an urgent care once every three days so
 13 that she could get a doctor's note to turn into work. This process was extremely stressful and only
 14 worsened Plaintiff's condition.

15 136. On June 14, 2016, after Defendant learned that Plaintiff had been to urgent care for
 16 treatment, Mr. Consiglio asked Plaintiff via text message "**What was the diagnosis to be out a whole**
 17 **week???**" which made Plaintiff extremely uncomfortable, as it intruded on her medical privacy.

18 137. Feeling like she had to explain her medical situation once again, Plaintiff emailed Mr.
 19 Consiglio, Brent Jones, and Blane Jones on June 14, 2016, reiterating that her diagnosis was due to
 20 her ADHD, depression, and anxiety, which had become worse due to the work-related issues she was
 21 going through, including but not limited to the Scientology-related courses.

22 138. While Plaintiff was out on medical leave, Mr. Consiglio began demanding that Plaintiff
 23 give him her work passwords and various course files. Plaintiff refused to give Mr. Consiglio her
 24 email and computer passwords, as she did not feel comfortable doing so until speaking with upper
 25 management, especially while she was still employed with Defendant.

26 139. Despite Plaintiff being on a medical leave of absence for her disability and providing
 27 a doctor's note, Mr. Consiglio subjected Plaintiff to the adverse action of a written warning on June
 28 14, 2016 for attendance.

140. On or about June 25, 2016, Defendant terminated Plaintiff's employment without warning or any kind of notice.

141. Upon information and belief, Defendant subjected Plaintiff to the adverse actions of a written warning, a required doctor's note once every three days, and termination because of Defendant's perceptions of Plaintiff's limitations due to her disability.

142. In doing the acts and omissions alleged herein, Defendant knew or should have known that its conduct was directed to a person with a disability, thereby entitling Plaintiff to recover all damages, penalties, and/or other such remedies pursuant to federal law.

143. Defendant's actions were taken with malice and/or with reckless indifference to Plaintiff's federally protected rights.

144. As a result of Defendant's actions, Plaintiff has suffered lost wages, mental anguish, emotional distress, inconvenience and loss of enjoyment of life.

145. Plaintiff is entitled to recover compensatory damage due to the Defendant engaging in unlawful disability discrimination.

EIGHTH CLAIM FOR RELIEF

Violation of Title V of the Americans with Disabilities Act; 42 U.S.C §§ 12203 *et seq.*

(Retaliation)

146. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of the complaint as though fully set forth herein, and incorporates the same herein by reference.

147. Plaintiff engaged in protected employee activity by requesting an accommodation for her disability.

148. Specifically, Plaintiff reasonably requested medical time off of work to tend to her disability, which was debilitating her emotionally and mentally, until she could get in to see a professional doctor.

149. Defendant effectively denied Plaintiff's request for an accommodation by: giving her a written warning for attendance, requiring a doctor's note once every three days, and terminating her, all in the span of weeks after Plaintiff requested her accommodation.

150. The timing of Defendant's adverse actions establishes a causal connection between

1 Plaintiff's protected activity and the adverse actions which ultimately resulted in Plaintiff's
2 termination.

3 151. In doing the acts and omissions alleged herein, Defendant knew or should have known
4 that its conduct was directed to a person with a disability, thereby entitling Plaintiff to recover all
5 damages, penalties, and/or other such remedies pursuant to federal law.

6 152. Defendant's actions were taken with malice and/or with reckless indifference to
7 Plaintiff's federally protected rights.

8 153. As a result of Defendant's actions, Plaintiff has suffered lost wages, mental anguish,
9 emotional distress, inconvenience and loss of enjoyment of life.

10 154. Plaintiff is entitled to recover compensatory damage due to the Defendant engaging in
11 unlawful disability discrimination.

12 **NINTH CLAIM FOR RELIEF**

13 **Nevada State Law Violation**

14 **(Violation of NRS 613.330 – Disability Discrimination)**

15 155. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of the
16 complaint as though fully set forth herein, and incorporates the same herein by reference.

17 156. Defendant discriminated against Plaintiff by subjecting her to, among other
18 discriminatory acts, loss of compensation and termination, while other similarly situated employees,
19 who did not request an accommodation for disability entailing time off of work, were not exposed to
20 the same discriminatory conduct.

21 157. As a result of Defendant's actions, Plaintiff has suffered lost wages, mental anguish,
22 emotional distress, inconvenience and loss of enjoyment of life.

23 158. Defendant's discrimination deprived Plaintiff of employment opportunities and
24 adversely affected her status as an employee.

25 **TENTH CLAIM FOR RELIEF**

26 **Violation of the Age Discrimination in Employment Act of 1967 – 29 U.S.C.A. § 623**

27 159. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of the
28 complaint as though fully set forth herein, and incorporates the same herein by reference.

160. At all times relevant hereto for purposes of this Complaint, Plaintiff was over 40 years old.

161. Defendant employed a specific policy and practice which had a significantly adverse or disproportionate impact on employees 40 years of age or older.

162. Defendant utilized Plaintiff's medical leave as a means to terminate her employment and fill her position with a younger employee.

163. Other employees of Defendant over 40 years old have also been arbitrarily terminated in order to fill their positions with younger employees.

164. Because of this policy and practice, Plaintiff has suffered lost wages, mental anguish, emotional distress, inconvenience, and loss of enjoyment of life.

165. It has been necessary for Plaintiff to retain the services of attorneys and she is entitled to reasonable costs and attorneys' fees.

ELEVENTH CLAIM FOR RELIEF

**Violation of the Fair Labor Standards Act of 1938, as amended by the Equal Pay Act of 1963
("EPA"), 29 U.S.C.A §§ 206, et seq.**

166. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs of the complaint as though fully set forth herein, and incorporates the same herein by reference.

167. Defendant discriminated against Plaintiff by providing her with lower pay than her similarly-situated male colleague in the Human Resources Department on the basis of her gender (female), even though Plaintiff performed similar duties requiring the same skill, effort, and responsibility of her male counterpart.

168. Upon information and belief, Plaintiff's starting salary with Defendant was \$15.00 per hour, whereas her male counterpart's starting salary was \$20.00 per hour.

169. The differential in pay between Plaintiff and her male counterpart was not due to seniority, merit, quantity, or quality of production, or a factor other than sex, but was due to gender.

170. Upon information and belief, Plaintiff has superior human resource experience than her male counterpart, Frank Consiglio.

171. Plaintiff and Mr. Consiglio performed similar job duties and functions in the Human

1 Resources Department that required equal skill, effort, and responsibility, and were performing under
2 similar working conditions.

3 172. Upon information and belief, Mr. Consiglio did not have any previous human resource
4 experience prior to starting employment in the Human Resources Department with Defendant,
5 whereas Plaintiff actually had an abundance of previous human resource experience.

6 173. Defendant willfully caused, attempted to cause, contributed to, or caused the
7 continuation of wage rate discrimination based on gender, in violation of the EPA.

8 174. As a result of Defendant's conduct as alleged in this Complaint, Plaintiff has suffered
9 lost wages, mental anguish, emotional distress, inconvenience, and loss of enjoyment of life.

10 175. By reason of Defendant's discrimination, Plaintiff is entitled to all legal and equitable
11 remedies available for violations of the EPA, including liquidated damages for all willful violations,
12 prejudgment interest, attorneys' fees, costs, and other compensation pursuant to 29 U.S.C. § 216(b).

13 176. It has been necessary for Plaintiff to retain the services of attorneys and she is entitled
14 to reasonable costs and attorneys' fees under 29 U.S.C. § 216(b).

DEMAND FOR JURY TRIAL

16 177. Pursuant to the Seventh Amendment of the United States Constitution, Plaintiff
17 invokes her right to trial by jury in this civil action.

PRAYER FOR RELIEF

19 WHEREFORE, Plaintiff prays for judgment against Defendant, and each of them, as follows:

20 1. For a judgment in favor of Plaintiff against Defendant, and each of them, on the
21 complaint and all claims for relief asserted therein;

22 2. For an award of economic damages in an amount sufficient to make Plaintiff whole for
23 past and future lost income and benefits and other economic losses suffered by Plaintiff resulting from
24 Defendant' conduct;

25 3. For an award of compensatory damages from mental anguish, emotional distress, pain
26 and suffering, humiliation, harm to reputation and other losses incurred by Plaintiff as a result of
27 Defendant's conduct;

28 ||| 4. For an award of prejudgment and post-judgment interest;

1 5. For an award of punitive damages;
2 6. For an award of Plaintiff's cost of suit incurred herein; and
3 7. For an award of attorney's fees and related expenses pursuant to § 706(k) of Title VII,
4 42 U.S.C. § 2000e-5(k) and other corresponding federal law.
5 8. For an award of such other relief the Court may deem just and proper.

6 DATED this 22nd day of November, 2016.

7 Respectfully submitted,

8 **MAIER GUTIERREZ AYON**

9 /s/ Danielle J. Barraza

10 JOSEPH A. GUTIERREZ, ESQ.

11 Nevada Bar No. 9046

12 DANIELLE J. BARRAZA, ESQ.

13 Nevada Bar No. 13822

14 8816 Spanish Ridge Avenue

15 Las Vegas, Nevada 89148

16 Attorneys for Plaintiff Lisa Marie Bailey